

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SMALL HEARTS DAYCARE CENTER II, LLC &)	
WALTER COLEMAN,)	
)	
Plaintiffs,)	
V.)	CAUSE NO. 4:09CV2132 HEA
)	
KATHY QUICK,)	
)	
Defendant.)	JURY TRIAL DEMANDED

PRELIMINARY INJUNCTION

This matter is before the Court on plaintiff's motion for preliminary injunction [Doc. # 2]. Counsel for the parties and the Missouri Department of Health and Senior Services appeared for a hearing on plaintiffs' motion for temporary restraining order on January 28, 2010. Before the hearing on the motion for temporary restraining order (TRO), defendant's motion to dismiss was heard and taken with the case. [Doc. #21].

After hearing the testimony of the witnesses, reviewing the documentary evidence, and considering the factors set forth in Dataphase Systems, Inc. v. C.L. Systems, Inc., 640 F.2d 109 (8th Cir. 1981) (en banc), the Court concluded that the plaintiffs had established their entitlement to a temporary restraining order. The Court entered its temporary restraining order on January 28, 2010. The Court also entered its written order [Doc. # 24] on February 1, 2010.

The parties have agreed that no further evidence is necessary because the evidence previously presented on January 28, 2010, is sufficient to satisfy the requirements for entry of a preliminary injunction. Thus for the reasons previously articulated by the Court on the record,

IT IS HEREBY ORDERED that plaintiffs' motion for a preliminary injunction [Doc. # 2] is granted.

IT IS FURTHER ORDERED that the Missouri Department of Health and Senior Services, Kathy Quick, her employees, successors and assigns and those in active participation with them are hereby enjoined and restrained from communicating orally or in writing that Small Hearts Daycare Center, II, LLC, is operating without a license or that Walter Coleman is operating Small Hearts Daycare Center, II, LLC, without a license, except where such communication is required by law.

IT IS FURTHER ORDERED that the Missouri Department of Health and Senior Services, and Kathy Quick shall, not later than Monday, February 8, 2010, mail or otherwise provide a copy of this Preliminary Injunction to each of the individuals, agencies and other entities whom they previously informed of the denial of the plaintiffs' application for renewal of child care license.

IT IS FURTHER ORDERED that plaintiffs shall be allowed to continue to operate as a licensed child-care facility during the pendency of all administrative proceedings involving the renewal application of plaintiffs' child-care facility license issued on October 22, 2007.

IT IS FURTHER ORDERED that plaintiffs follow all statutes, rules, and regulations governing licensed child care facilities in Missouri during the pendency of all administrative proceedings involving the renewal application of plaintiffs' child-care facility license issued on October 22, 2007.

IT IS FURTHER ORDERED that the Missouri Department of Health and Senior Services shall be authorized to perform any and all functions permitted under law and consistent

with this preliminary injunction so as to ensure plaintiffs' continuing compliance with pertinent statutes, rules, and regulations, including but not limited to on-site inspections.

IT IS FURTHER ORDERED that the Missouri Department of Health and Senior Services shall be authorized to move this Court for dissolution of this preliminary injunction should it discover evidence of imminent harm or danger to the children attending this facility during the period that this preliminary injunction is in effect.

IT IS FURTHER ORDERED that the plaintiffs shall not be required to give security, as this Court determines that defendants have not been wrongfully enjoined.

IT IS FURTHER ORDERED that the preliminary injunction hearing scheduled for February 8, 2010, shall be vacated as moot.


HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE

Entered at 8th this ___ day of February, 2010.